

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

JEFFERY WORTHY	§	
VS.	§	CIVIL ACTION NO. 1:07cv634
T.C. OUTLAW, ET AL.	§	

MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Jeffery Worthy, an inmate formerly at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, brought the above-styled lawsuit.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends that the defendants' motion for summary judgment should be granted, and the action be dismissed for failing to exhaust administrative remedies.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record and pleadings. Plaintiff filed objections to the magistrate judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

After careful consideration, the court concludes plaintiff's objections are without merit. While plaintiff claims he did submit a grievance at the first level, plaintiff has failed to allege or demonstrate he exhausted all steps of the grievance procedure. Plaintiff states that "he believed [he] was time-barred from seeking further administrative redress." Objections at *2. The Supreme Court has explained that prisoners must exhaust available administrative remedies in accordance with all

procedural rules, including deadlines, as a precondition to bringing suit in federal court. *Woodford v. Ngo*, 548 U.S. 81, 126 S.Ct. 2378, 2382, 2387, 165 L.Ed.2d 368 (2006). Accordingly, this complaint should be dismissed without prejudice for failure to state a claim upon which relief may be granted.

O R D E R

For the reasons set forth above, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

So **ORDERED** and **SIGNED** this **27** day of **July, 2010**.

A handwritten signature in black ink, appearing to read "Ron Clark", written in a cursive style.

Ron Clark, United States District Judge